UNITED NATIONS

ECONOMIC AND SOCIAL COUNCIL

Distr.
GENERAL

E/CN.4/1986/29/Add.3
20 December 1985

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Forty-second session

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

Reports submitted by States Parties under article VII of the Convention

Addendum

ECUADOR 1/

[Original: Spanish]

[2 September 1985]

Pursuant to the provisions of article VII of the International Convention on the Suppression and Punishment of the Crime of Apartheid, and in its capacity as a State which has signed and ratified the said Convention, Ecuador is submitting for consideration by the Special Committee against Apartheid its report on the application of that Convention.

No policies or practices of discrimination or racial segregation exist on Ecuadorian territory. Thus, the Constitution of the State, which was approved by the people of Ecuador in full exercise of its sovereign right through a referendum held on 15 January 1978 and which has been in force since 10 August 1979, condemns such inhuman practices and policies.

In fact, article 4 of the Constitution provides that: "The Ecuadorian State condemns all forms of colonialism, neo-colonialism and racial discrimination or segregation. It recognizes the right of peoples to free themselves from these oppressive systems".

Furthermore, article 19 of the Constitution, concerning the rights of the individual, declares that every person is guaranteed equality before the law and accordingly prohibits any discrimination on grounds of race, colour, sex, language, religion, descent, political or other opinions, social origin, economic status or birth.

1/ The initial report submitted by the Government of Ecuador (E/CN.4/1983/24/Add.2) was considered by the Group of Three at its 1983 session.

The said article guarantees the inviolability of life and personal integrity and the right to full material and moral development; the right to freedom of opinion and expression of thought using any means of communication, without prejudice to civil and criminal responsibilities; the right to honour and to a good reputation; freedom of conscience and of religion, both individual and collective, in public or in private; the right to travel freely through the national territory and to select a place of residence; the right to a level of life which ensures health, food, clothing, housing, medical care and the necessary social services; personal freedom and security and freedom of contract, freedom of work and the right of association, these latter guarantees being fully regulated in the current Labour Code.

Paragraph 16 of the same article 19, guaranteeing the freedom and security of every individual, prohibits slavery and servitude in all their forms, for it is the primary duty of the State to ensure respect for human rights, the fundamental human freedoms, and to promote the economic, social and cultural progress of the country's inhabitants, the latter being possible only on the basis of the former.

In this connection, the Minister for Foreign Affairs of Ecuador made the following statement to the United Nations General Assembly:

> "Since its accession to independence, Ecuador has been a constant defender of the freedom of man. It was one of the first countries to abolish slavery entirely, within a process which sprang from the genius of the ideas of Bolívar, the Liberator, when we were part of Gran Colombia. In 1851, Ecuador eliminated the last remnants of the slave system. The eradication of racial discrimination has also been the subject of considerable legislation throughout Ecuador's history and it is fully enshrined in the Political Constitution of the State".

The Constitution of the State provides, in article 19, subparagraph 16 (j) for the right of habeas corpus in the following terms:

> "Any person who considers that he has been illegally deprived of his freedom may avail himself of the remedy of habeas corpus. He may exercise this right either personally or through another person, without need of a written order, by applying to the magistrate or President of the Council in his jurisdiction or whoever may be acting for him. The municipal authority shall immediately order the petitioner to be brought before it and the arrest warrant to be produced. Its instructions shall be obeyed without comments or excuses by the officials in charge of the prison or place of detention. When he has been informed of the background to the case, the magistrate or President of the Council shall, within a period of 48 hours, order the immediate release of the petitioner, in the event of the detainee not being brought before him, or the order not being produced or not being in keeping with the legal requirements, or of a lack of due process or, finally, in the event of the appeal having been substantiated. Any official or employee who does not comply with the order shall be dismissed forthwith from his post or employment without any further formalities by the magistrate or the President of the Council, who shall report the dismissal to the Comptroller and to the authority which is required to appoint his replacement. After having released the prisoner, the employee concerned may appeal against his dismissal to the Administrative Tribunal within eight days of being notified thereof".

On the other hand, in the event of a violation of the above-mentioned constitutional provisions, any citizen affected can have recourse, without distinction, either to the courts and tribunals of the Republic or to the Committee on the Elimination of Racial Discrimination, whose competence was recognized by Ecuador through a special declaration made on 21 March 1977.

Article 44 of the Constitution of Ecuador stipulates that the State guarantees to all individuals who are subject to its jurisdiction, whether men or women, free and effective exercise and enjoyment of the civil, political, economic, social and cultural rights set forth in the declarations, covenants, conventions and other international instruments in force.

Lastly, in the event that the members of the Special Committee against Apartheid so desire, the Government of Ecuador would be pleased to amplify the contents of this report or answer any questions that may be posed upon the subject.